



News & Updates

NEW YORK SUPREME COURT, NEW YORK COUNTY (NYCAL) – MANUFACTURER’S PROOF REGARDING EXTERIOR INSULATION SCRUTINIZED AND REJECTED (FEB. 5, 2015)

In this NYCAL case, the plaintiff claimed exposure to aftermarket asbestos insulation installed on Aurora pumps, which Aurora sought to dismiss by claiming it owed no duty for insulation it did not supply. In support of its motion, Aurora attached the testimony of a corporate representative from an unrelated matter. The representative had testified in the prior case that they did not have any records about insulation and the pumps did not require insulation to operate properly. The testimony was rejected on procedural grounds, since the representative’s testimony was taken without notice or attendance by plaintiff’s counsel and none of the records referenced in the transcript were attached with the testimony, as well as on substantive grounds, as the representative’s testimony was regarding unrelated Naval exposure. The court also stated that Aurora failed to show that the insulation surrounding its pumps was asbestos-free and had admitted that many of its pumps contained asbestos components. The court distinguished this case from the case cited by Aurora, *Peraica v. A.O. Smith Water Products*, where the court granted summary judgment to a pump manufacturer. Unlike Aurora, the pump manufacturer in *Peraica* proved it had no duty to warn of the hazards associated with aftermarket insulation through production of product literature that showed it had directed its customers not to insulate its pumps. In denying Aurora summary judgment, the court stated that “the evidence submitted by Aurora in support of its position that it is not responsible for asbestos-containing external insulation applied to its pumps has little or no bearing on the facts and circumstances of this case.”

[Click here for a copy of the decision.](#)

If you have questions about how this case may impact your business, please contact:

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Files

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